

# EXHIBIT A

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1 KING COUNTY  
2 SUPERIOR COURT CLERK  
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4 CASE NUMBER: 18-2-18587-4 SEA

7  
8 SUPERIOR COURT FOR THE STATE OF WASHINGTON  
9 IN AND FOR THE COUNTY OF KING

10 MARIO RODRIGUEZ,

11 Plaintiff;

12 v.

13 THE BOEING COMPANY,

14 Defendant.

15 NO. 18-2-18587-4

16  
17 FIRST AMENDED  
18 COMPLAINT FOR DAMAGES

19 JURY TRIAL DEMANDED

20  
21 Plaintiff MARIO RODRIGUEZ, by and through his attorney of record, Stockwell Law  
22 Firm PLLC, hereby alleges as follows:

23  
24 I. PARTIES

25  
26 1.1 Plaintiff Mario Rodriguez (hereinafter "Plaintiff" or Mr. Rodriguez") is and  
has been a resident of the State of Washington and of King County at all times material to the  
events described herein.

FIRST AMENDED  
COMPLAINT FOR DAMAGES – 1

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1       1.2     Defendant the Boeing Company (hereinafter “Boeing” or “Defendant”), at all  
2     times material hereto, has been corporation doing business in King County, Washington.

3       1.3     The defendant named above, and/or its agents acted in an unlawful manner,  
4     both intentionally and/or negligently, by depriving Plaintiff of clearly established, statutorily-  
5     protected rights to be free from discrimination and tortious in the workplace.

6       1.4     Defendant and/or its agents further acted in a manner that was deliberately  
7     indifferent, wanton, willful, and which reflected a reckless disregard for Plaintiff’s well-being  
8     by constrictively and wrongfully discharging Plaintiff in direct violation of a public policy of  
9     the State of Washington.

## 11                   **II.     JURISDICTION & VENUE**

12       2.1     The acts alleged herein primarily occurred in King County, Washington.

13       2.2     As a court of general jurisdiction, the King County Superior Court has personal  
14     and subject matter jurisdiction over the claims alleged. RCW § 2.08.010. Plaintiff has  
15     arranged for timely personal service of process on the defendant’s registered agent in  
16     Washington State pursuant to RCW § 4.28.080(9).

## 18                   **III.    NATURE OF EMPLOYER**

19       3.1     Defendant was, at all relevant times, engaged in trade and commerce in King  
20     County, Washington, and fits the definition of employer within the meaning of RCW §§  
21     49.60.040. & 51.08.070.

## 22                   **IV.     FACTS**

1       4.1     In June 2014, Mario Rodriguez began working in Information Technology at  
2 Boeing, during which he enjoyed three years of positive performance reviews and  
3 meaningful work.

4       4.2     In March of 2017, Mr. Rodriguez interviewed for, and was hired by Laura  
5 Ward, Second level manager, for an internally posted position of Systems and Data Analyst.

6       4.3     On April 5, 2017, Mr. Rodriguez received a no post internal job offer to be  
7 an IT Access Administrator' with the explicit understanding that a declination of any no post  
8 job offer is considered a resignation from Boeing. Mr. Rodriguez formally protested this  
9 bait and switch of job offer to Boeing Human Resources representative Gemma Barajas on  
10 April 6, 2017. After April 7, 2017, Mr. Rodriguez escalated the issue to Sierra Makepeace  
11 in HR, but there was ultimately no resolution. On April 7, 2017, Mr. Rodriguez began his  
12 job as an IT Access Administrator at Boeing Identity and Access Management under Laura  
13 Ward.

14       4.4     On numerous occasions, including specifically, August 4, 2017 and August  
15 10, 2017, co-worker Karon Wilmot made disparaging remarks, to Mr. Rodriguez regarding  
16 Latinos, LGBTQ persons and Mr. Rodriguez's aesthetic suitability for a homosexual person  
17 Ms. Wilmot was acquainted with.

18       4.5     On August 16, 2017, Mr. Rodriguez attempted to report these incidents to  
19 his manager Laura Ward. Ms. Ward had just returned from vacation, and at that time,  
20 Laura Ward prohibited Mr. Rodriguez from enumerating the series of events at that  
21 meeting.

1           4.6     On August 18, 2017, during a conference call, Mr. Rodriguez gave Ms. Ward  
 2 the details of the aforementioned derogatory incidents with Ms. Wilmot. Ms. Ward claimed  
 3 she did not know what to do in these situations. Mr. Rodriguez asked to be moved away from  
 4 Ms. Wilmot immediately. Ms. Ward did not grant Mr. Rodriguez's request to move his desk,  
 5 and instead attempted to make a bargain with Mr. Rodriguez to instead work on a new project  
 6 with coworker Denise Mills. Ms. Ward then asked Mr. Rodriguez to take the weekend to  
 7 think about "what else she could do to make this situation better. Ms. Ward ended the  
 8 conversation by claiming she just received an emailed response from HR on how to proceed.  
 9 She informed Mr. Rodriguez that he should file an Ethics complaint. Ms. Ward then shared a  
 10 story regarding another manager and an ethics complaint. She concluded the story by telling  
 11 Mr. Rodriguez that the ethics complaint in that case ended with a negative outcome for the  
 12 complaining employee. Ms. Ward told Mr. Rodriguez that, "it's probably not a good idea to  
 13 file an ethics complaint."

14  
 15           4.7     On August 19, 2017, Mr. Rodriguez filed Ethics Complaint # 755771,  
 16 claiming hostile actions by Karon Wilmot and Laura Ward.

17  
 18           4.8     On August 25, 2017, Sonja Ramirez emailed Mr. Rodriguez informing him  
 19 his case had been accepted by Boeing EEO and that Kathy Cho JD would be the investigator  
 20 handling his complaint.

21  
 22           4.9     On August 30, 2017, Ms. Ward informed Mr. Rodriguez that she would not  
 23 allow him to perform work in support of team member Denise Mills. When Mr. Rodriguez  
 24 asked why, she said because he had applied for internal positions and that "it would be a

1 waste of department resources" if Mr. Rodriguez were to move on to the new position within  
2 Boeing.

3 4.10 On September 6, 2017, at or around 9:00AM, Mr. Rodriguez received a call  
4 from Katie Frisbie informing him she would be the investigator on his complaint.

5 4.11 On September 11, 2017, Karon Wilmot made racist remarks regarding and  
6 Indian national to Andrea Lee or another coworker via phone. Ms. Wilmot mocked the  
7 Indian surname and said "with that last name he probably wasn't born in Jersey. You know  
8 what I mean!"

9 4.12 On September 13, 2017, during a regular one-on-one meeting with Mr.  
10 Rodriguez and Ms. Ward, Ms. Ward went from maintaining professional composure to  
11 yelling at the top of her lungs at Mr. Rodriguez. She yelled in part, "I am so frustrated with  
12 you."

13 4.13 On or about September 14, 2017, Mr. Rodriguez attempted to report new  
14 remarks by Ms. Wilmot about Mr. Rodriguez's suitability for her gay friend to Sonya  
15 Ramirez and Katie Frisbie. Mr. Rodriguez also reported the September 13, 2017 incident  
16 with Ms. Ward where she began yelling wildly at Mr. Rodriguez about "being frustrated"  
17 with Mr. Rodriguez. Sonya Ramirez noted the incidents. A separate conversation with  
18 Katie Frisbie yielded confrontational and abrasive language by Ms. Frisbie directed toward  
19 Mr. Rodriguez, during which she refuted all Mr. Rodriguez's concerns.

20 4.14 On September 15, 2017, at the insistence of Katie Frisbie, Mr. Rodriguez  
21 submitted a modified recap.

1           4.15 On September 19, 2017, Mr. Rodriguez found out his parent was ill and he  
2 sought medical leave through the Reed group due to the nature of the illness.

3           4.16 On September 20, 2017, Ms. Ward reversed course and informed Mr.  
4 Rodriguez that he would start training to support Denise Mills twice a week. Mr.  
5 Rodriguez asked Ms. Ward about her prior comments regarding his not being allowed to  
6 do this because he was seeking job placement within Boeing. Ms. Ward denied ever  
7 saying that and then concluding the meeting. Ms. Ward then shared, without  
8 solicitation, that she had not been in contact with ethics.

9           4.17 On September 22, 2017, Ms. Frisbie asked Mr. Rodriguez for the names of  
10 people who sit near his work area. Mr. Rodriguez provided those names. He also asked Ms.  
11 Frisbie if she could have him moved away from Ms. Wilmot, as her continued  
12 discriminatory remarks against all races and more recently homeless people are becoming  
13 untenable.

14           4.18 On September 27, 2017, Mr. Rodriguez emailed Ms. Frisbie inquiring about  
15 what stage the investigation was in, and what to expect now that she's had chance to review  
16 his initial filing, secondary notes. On September 28, 2017, Katie informed Mr. Rodriguez  
17 that the investigation time averages about 30 days from her receiving his signed statement on  
18 September 15, 2017.

19           4.19 Also, on September 28, 2017, and later that night (9/29/17 Friday 1:05AM)  
20 Mr. Rodriguez emailed Ms. Frisbie six pages of detailed notes and corresponding email  
21 attachments regarding his one-on-one meetings with his manager Ms. Ward for the dates of  
22 8/18, 8/23, 8/30, 9/6, 9/13, and 9/20. These notes were reporting incidents/behaviors by Ms.  
23

1 Ward since Mr. Rodriguez's informing her of Ms. Wilmot's racist and discriminatory remarks  
2 and filing Ethics Complaint # 755771. Mr. Rodriguez asked Ms. Frisbie in that email to  
3 review his new information and help him understand if Ms. Ward is in violation of EEO rules  
4 and if those actions merited further review.

5 4.20 On September 29, 2017, around 9:00AM Ms. Frisbie called Mr. Rodriguez  
6 and told him that she received his new notes. Ms. Frisbie informed Mr. Rodriguez at that  
7 time that his complaint and subsequent submissions of material information for Ethics  
8 Complaint # 755771 were deemed investigated thoroughly and closed with zero findings.  
9 She then informed Mr. Rodriguez of his right to appeal her decision.

10 4.21 On September 30, 2017, Mr. Rodriguez went on emergency leave to care for a  
11 parent.

12 4.22 On October 4, 2017, Ms. Ward announced her retirement TBD in the 4th  
13 quarter and would be personally recruiting her replacement.

14 4.23 On October 6, 2017, Mr. Rodriguez submitted a four-page appeal for Ethics  
15 Complaint # 755771 detailing reported events and asking for a thorough review of his tertiary  
16 submission of September 28, 2017 to Ms. Frisbie.

17 4.24 On October 12, 2017, Ms. Ward ordered the removal of Mr. Rodriguez's  
18 system credentialing essential to perform his job functions. These credentials take  
19 approximately two months to gain or regain if expired.

20 4.25 On December 12, 2017, Ms. Ward completed Mr. Rodriguez's Performance  
21 Management Review with inaccurate negative scores. Ms. Ward provided no supporting  
22 documentation for those scores.

1           4.26 On December 20, 2017, Mr. Rodriguez received a verbal job offer from  
 2 manager Matt Pham for Data Analyst in Boeing Digital Aviation with a proposed start date  
 3 of April 6, 2018.

4           4.27 On December 21, 2017, Mr. Rodriguez returned to his current organization  
 5 and met with Ms. Ward's replacement Peter Flor. Mr. Rodriguez asked for Mr. Flor's  
 6 procedural support in Mr. Rodriguez's release to Boeing Digital Aviation. Mr. Flor refused  
 7 Mr. Rodriguez's release and cited that Mr. Rodriguez had not earned the privilege to move  
 8 on. Mr. Flor cited a poor Performance Review and length of working days in their current  
 9 organization as reasons.

10           4.28 On January 3, 2018 and January 4, 2018, Mr. Rodriguez reviewed his 2017  
 11 Performance

12           4.29 Management review by Ms. Ward Mr. Flor. Mr. Rodriguez provided Mr. Flor  
 13 with a time-line and emailed correspondence refuting the claims on his Performance  
 14 Management Evaluation. Mr. Rodriguez asked Mr. Flor to override his negative Performance  
 15 Management Evaluation review as he had discretion to do so. Mr. Flor refused and instead  
 16 suggested they schedule a conference with his now former manager, Ms. Ward and Senior  
 17 Leader Brian Jeffords to clarify Mr. Rodriguez's Performance Management Review. Mr.  
 18 Flora claimed the practice of calling former employees was normal, and that his manager, Mr.  
 19 Jeffords instructed him to proceed in this manner. Mr. Rodriguez asked Mr. Flor if he was  
 20 allowed to resume his job duties. Mr. Rodriguez also asked again to be moved away from  
 21 Ms. Wilmot. Mr. Flor said he would consider allowing me to resume my duties. Mr. Flor did  
 22 not address Mr. Rodriguez's request to be moved away from Ms. Wilmot. Mr. Flor

1 ultimately refused to allow Mr. Rodriguez to resume his job duties and wholly restore his  
2 credentials. Mr. Rodriguez was instead assigned ad-hoc menial tasks in support of Ms.  
3 Wilmot and Ed Asombrado.

4 4.30 On January 5, 2018, Mr. Rodriguez filed a Boeing sponsored Alternative  
5 Dispute Resolution ADR # 769110. The dispute in question was Mr. Flor's refusal to  
6 remove Ms. Ward's inaccurate comments and scoring on Mr. Rodriguez's Performance  
7 Review. Mr. Rodriguez compiled a twenty-four-page granular refute of Ms. Ward's  
8 inaccurate scoring on his Performance Review. Mr. Rodriguez submitted this claim with  
9 irrefutable Boeing Data and Emails supporting his near zero error rate in IT functions and  
10 positive contributions to his organization.

12 4.31 In meetings with Mr. Flor on 1/5, 1/23 and 1/30, Mr. Rodriguez insisted that  
13 Mr. Flor reinstate all of his system access so that he could resume all his previous job  
14 functions as before his FMLA leave.

16 4.32 Also, on January 5, 2018, Mr. Rodriguez reported the blocking of his job  
17 transfer to Digital Aviation, the negative Performance Review, and Mr. Flor's prohibiting  
18 Mr. Rodriguez's resumption of his duties to Joanna Kester, Senior HR Manager, alerting her  
19 that these actions appear be retaliatory in nature and merit investigation

20 4.33 On January 17, 2018, Mr. Rodriguez reported his negative Performance  
21 Review and Mr. Flor's prohibiting Mr. Rodriguez from resuming his duties as actions  
22 to Jeremy Lehman JD, Boeing Ethics Investigator, stating these actions appear to be  
23 retaliatory in nature and merit investigation.

1           4.34 On or about January 17, 2018, Mr. Flor, at Mr. Asombrado's insistence,  
2 allowed for Mr. Rodriguez's partial reinstatement of credentials related to the assigned  
3 ad-hoc tasks in support of Ed Asombrado.

4           4.35 On January 30, 2018, Tippi Hall, Ethics Appeals investigator called Mr.  
5 Rodriguez, and informed him that Ethics Appeal for Ethics Complaint # 755771  
6 was found to be baseless and unsubstantiated. Mr. Rodriguez asked if Ms. Ward had  
7 been made to resign as a result of administrative fallout. Tippi Hall denied that Ms.  
8 Ward was forced to resign as a result of administrative fallout.

9           4.36 On January 30, 2018, Mr. Rodriguez received and accepted a formal offer for  
10 employment in Boeing Digital Aviation as a System and Data Analyst for Matt Pham with a  
11 start date of April 6, 2018.

12           4.37 On February 5, 2018, Mr. Rodriguez's smart phone, his primary mode of  
13 work communication, was shut off without notice or explanation. Mr. Rodriguez called  
14 Verizon Wireless and Boeing Tech Support regarding his Boeing phone and was told it was  
15 ordered shut off by an "unnamed manager."

16           4.38 On February 6, 2018, Mr. Rodriguez formally reported Ms. Ward's adverse  
17 credential removal and Mr. Flor's refusal to allowing Mr. Rodriguez to resume his normal job  
18 functions, and the shut off of his Boeing smart by a manager to Octavia King and Sonya  
19 Ramirez of the Ethics Intake Department Ethics Complaint # 772509.

20           4.39 On or about February 7, 2018 Mr. Rodriguez contacted Boeing HR recruiter,  
21 Jane Anne Howard, regarding his job, offer for Systems and Data Analyst, for start date  
22 approval status.

1           4.40 On February 7, 2018, Sonya Ramirez from Ethics suggested that Mr.  
2 Rodriguez contact Executive Leader, Kevin Meehan, to report these on goings.

3           4.41 Between February 6-8, 2018, Mr. Rodriguez reported these matters via email  
4 to Jeremy Lehman, Tippi Hall, Danielle Donovan, Joanna Kester, Octavia King, and Sonya  
5 Ramirez.

6           4.42 On February 8, 2018, Mr. Rodriguez reported these matters to Kevin Meehan,  
7 Senior Executive, and supplied him with case numbers and synopsis of events since 2017.  
8

9           4.43 On February 14, 2018, Mr. Rodriguez fell ill. He emailed Mr. Flor that he  
10 was not well and then went to the doctor. Mr. Rodriguez provided Mr. Flor with a doctor's  
11 note for his absences the week of February 14, 2018.

12           4.44 On February 18, 2018, Mr. Rodriguez's doctor, after further evaluation,  
13 ordered him to stop working. At that point, Mr. Rodriguez applied for Medical Leave. He  
14 was granted FMLA with a return to work date of May 4, 2018.

15           4.45 On 3/16 Reed Group denied Mr. Rodriguez's FMLA and phoned him. On this  
16 phone call Reed Group appeared to scrutinize his leave by having Lisa from the Reed Group  
17 reading out loud personal details about his medical condition. She informed Mr. Rodriguez  
18 that his doctor had not sent the necessary paperwork. Mr. Rodriguez insisted that they had  
19 and faxed the Reed Group fax e-confirmation provided by Dr. Sobia Moghis.

21           4.46 On March 20, 2018, Reed Group approved Mr. Rodriguez's short-term  
22 disability for 3/20 through 3/25

24           4.47 On April 20, 2018, Reed Group denied Mr. Rodriguez's short-term leave  
25 from 3/26/18- 6/13/18 citing Dr. Moghis not providing the requested information. Per Dr.

Moghis,’ clinical notes were provided in a timely manner. Mr. Rodriguez called the Reed Group to investigate and asked them to please reach out to his doctor as the Reed Group had made a mistake previously.

4.48 By April 30, 2018, Reed Group received more clinical notes from Dr. Moghis regarding Mr. Rodriguez's continued disability. Reed Group sent out another denial for short-term disability from 3/26/18-6/13/18 as insufficient in supporting a functional impairment.

4.49 Between February, 2018 and May 4, 2018 of Mr. Rodriguez's FMLA leave, Matt Pham, Hiring Manager at Boeing Digital Aviation, made contact with Mr. Rodriguez asking about his well-being and solicited a meeting with Mr. Rodriguez off work premises on the evening of March 22, 2018 for explicit reasons. During that meeting, Mr. Pham wanted to know Mr. Rodriguez's anticipated return to work date and shared his efforts to force Mr. Flor via a purported HR process to release Mr. Rodriguez to Boeing Digital Aviation.

4.50 During this same meeting Mr. Pham enticed Mr. Rodriguez's prompt return and assured him that a transition to his department is certain. Mr. Pham also indicated that if Mr. Rodriguez came back to work on after April 13, 2018, he would not have to report back to Mr. Flor at all. Mr. Pham then shared an email from his smartphone dated February 21, 2018 indicating Mr. Flor would release Mr. Rodriguez to the Digital Aviation organization on April 13, 2018.

4.51 Mr. Pham continued to message Mr. Rodriguez after their meeting asking about his well-being and asking if he had determined a return to work date. After April 13, 2018 had passed, Mr. Pham continued to message Mr. Rodriguez regarding his status.

4.52 On April 18, 2018, Mr. Pham and Mr. Rodriguez had a text exchange where Mr. Rodriguez was informed that he would need to report to Mr. Flor on his return to work date before any transfer to his department would be allowed.

4.53 On May 24, 2018, Mr. Pham texts Mr. Rodriguez again regarding my well-being.

4.54 On May 1, 2018, Mr. Pham made contact with Mr. Rodriguez again regarding his medical condition and when he would be returning to work.

4.55 On May 2, 2018, Mr. Rodriguez saw Dr. Reyes, Psychiatrist, regarding the hostile work environment and his well-being. Mr. Rodriguez explained his situation in detail. Dr. Reyes recommended Mr. Rodriguez not return to work at Boeing as it was continuing to affect him physically and emotionally.

4.56 On May 3, 2018, Mr. Rodriguez emailed Joanna Kester, Danielle Donovan and Heidi Capozzi notifying them of his forced separation due to Boeing's constructive discharge tactics.

4.57 On June 30, 2018, Mr. Rodriguez was awarded unemployment benefits due to his forced separation from Boeing.

## V. FIRST CAUSE OF ACTION – SEX DISCRIMINATION

5.1 Plaintiff re-alleges Paragraphs 1.1 through 4.57 and incorporates them herein as if set forth in full.

1       5.2     Defendant and/or their agents wantonly, willfully, and intentionally  
2 discriminated against Mr. Rodriguez on the basis of his sex in relation to employment  
3 promotions/lateral assignments and disciplinary actions.

4       5.3     On their face, the actions of Boeing's agents constitute provable illegal  
5 discrimination on the basis of Mr. Rodriguez's race and perceived sexual orientation.

6       5.4     Both Title VII, and Washington's Law Against Discrimination ("WLAD").  
7       RCW § 49.60.030(1) covers illegal sex discrimination, and RCW § 49.60.030(2) lays out that  
8 an aggrieved person has a civil remedy at law for damages, to include attorney's fees in a  
9 court of competent jurisdiction.

10      5.5     In Washington State it is an unfair practice for any employer:

11       (1) To refuse to hire any person because of age, sex, marital status, sexual  
12 orientation, race, creed, color, national origin, honorably discharged veteran or  
13 military status, or the presence of any sensory, mental, or physical disability or  
14 the use of a trained dog guide or service animal by a person with a disability,  
15 unless based upon a bona fide occupational qualification: PROVIDED, That the  
16 prohibition against discrimination because of such disability shall not apply if  
17 the particular disability prevents the proper performance of the particular worker  
18 involved: PROVIDED, That this section shall not be construed to require an  
19 employer to establish employment goals or quotas based on sexual orientation.  
20       (2) To discharge or bar any person from employment because of age, sex, marital  
21 status, sexual orientation, race, creed, color, national origin, honorably  
22 discharged veteran or military status, or the presence of any sensory, mental, or  
23 physical disability or the use of a trained dog guide or service animal by a person  
24 with a disability.

25       (3) To discriminate against any person in compensation or in other terms or  
26 conditions of employment because of age, sex, marital status, sexual orientation,  
27 race, creed, color, national origin, honorably discharged veteran or military  
28 status, or the presence of any sensory, mental, or physical disability or the use  
29 of a trained dog guide or service animal by a person with a disability:  
30 PROVIDED, That it shall not be an unfair practice for an employer to segregate  
31 washrooms or locker facilities on the basis of sex, or to base other terms and  
32 conditions of employment on the sex of employees where the commission by

1 regulation or ruling in a particular instance has found the employment practice  
2 to be appropriate for the practical realization of equality of opportunity between  
the sexes.

3 RCW §49.60.180.

4 5.6 In Washington State, the standard to prove a prima facie case of sex  
5 discrimination follows a version the familiar *McDonnell Douglas/Burdine* formula.

6 5.7 Washington State courts repeatedly advise that Washington's Law Against  
7 Discrimination is to be liberally construed to deter and eradicate discrimination. *Burchiel v.*  
8 *Boeing Corp.* 149 Wn. App. 468, 205 P.3d 145, review denied 166 Wn.2d 1038, 217 P.3d 783  
9 (2009). In order for a plaintiff to make a prima facie showing of employment discrimination  
10 alleging disparate treatment under Washington's Law Against Discrimination, he must prove  
11 four elements:

12 (1) [T]he employee is a member of a protected class, (2) the employee is  
13 qualified for the employment position or performing substantially equal work,  
14 (3) the employee suffered an adverse employment action, and (4) similarly  
15 situated employees not in plaintiff's protected class received more favorable  
16 treatment.

17 *Matson v. United Parcel Serv., Inc.*, 872 F. Supp. 2d 1131, 1145 (W.D. Wash. 2012).

18 5.8 It is not in dispute that Mr. Rodriguez is Latino, and therefore a member  
19 of a protected class. Based on the comments of Karen Wilmot. *See* Rodriguez Exhibit  
20 A & B at Bates # 000003 & 000010, it will not be difficult to establish that for purposes  
21 of the discriminatory actions, Boeing agent(s) perceived Mr. Rodriguez's sexual  
22 orientation to be homosexual. It will also not be difficult to establish that Mr. Rodriguez  
23 was both qualified for, and offered, the System and Data Analyst position in Matt  
24 Pham's group, and that but for the actions of Laura Ward, Peter Flor, and Karen Wilmot,

1 Mr. Rodriguez would have been in that position. In addition, Mr. Rodriguez was de  
2 facto subsequently demoted at a result of the same's actions. *See Id.* at 000002-000008.  
3 Finally, in an organization the size of Boeing, it will not be difficult to find numerous  
4 similarly situated employees outside of the protected class and perceived protected class  
5 which applies to Mr. Rodriguez here, who were treated more favorably under similar  
6 circumstances. I.e., Mr. Rodriguez can establish each prong of a *prima facie* case on  
7 his discrimination and retaliation claim.

8 5.9 The defendant does then have the opportunity to proffer a legitimate non-  
9 discriminatory reason (“LNDR”) for their adverse employment action(s):

10 5.10 If ... [Plaintiff] makes this *prima facie* showing, he must also show that the ...  
11 [Defendant's] legitimate reasons for its actions were pretextual. *Marin v. King Cty.*, 194 Wn.  
12 App. 795, 811, 378 P.3d 203, 213 (2016), *review denied sub nom. Marin v. King Cty.*, WA.,  
13 186 Wn.2d 1028, 385 P.3d 124 (2016).

14 5.11 Here, Boeing cannot proffer an LNDR that can pass the smell test. In short,  
15 Mr. Rodriguez was offered a position away from his tormentors, those tormentors removed  
16 his credentials, and provided him with a dishonest performance review in order to keep him in  
17 the position where they could further torment and retaliate against him on the bases of his  
18 protected class status. That torment and retaliation is what actually caused Mr. Rodriguez's  
19 constructive termination. I.e., any LNDR proffered is simply a pretext for the underlying  
20 adverse employment action(s).

21 5.12 On these facts, and authority, Boeing will lose a jury trial and be ordered to  
22 pay Mr. Rodriguez monetary damages in amount to be determined by that jury.

**VI. SECOND CAUSE OF ACTION – CONSTRUCTIVE WRONGFUL TERMINATION IN VIOLATION OF A PUBLIC POLICY**

6.1 Plaintiff re-alleges Paragraphs 1.1 through 5.12 and incorporates them herein as if set forth in full.

6.2 On their face, the actions of Boeing's agents constitute the commission of this tort claim. In Washington State to prove this tort a plaintiff must show:

1) the existence of a clear public policy (the clarity element); 2) that discouraging the conduct in which she engaged would jeopardize the public policy (the jeopardy element); 3) that her public-policy-linked conduct was a substantial factor in (i.e. the cause of) ... decision to discharge her (the causation element); and 4) that employers generally do not have an 'overriding justification' for wanting to use the activity as a factor affecting the decision to discharge (the absence of justification element).

*Little v. Windermere Relocation, Inc.*, 301 F.3d 958, 971 (9th Cir. 2002).

6.3 In a more recent case, The Washington State Supreme Court sitting *En Banc*, recognized an even broader interpretation of the wrongful termination tort, and the category of qualifying public policies:

Washington courts have generally recognized the public policy exception when an employer terminates an employee as a result of his or her (1) refusal to commit an illegal act, (2) performance of a public duty or obligation, (3) exercise of a legal right or privilege, or (4) in retaliation for reporting employer misconduct. *Gardner*, 128 Wash.2d at 935–36, 913 P.2d 377.

*Danny v. Laidlaw Transit Servs., Inc.*, 165 Wn.2d 200, 208, 193 P.3d 128, 132 (2008).

6.4 Here, the State of Washington has a clear public policy of protecting persons from race and sexual orientation discrimination in their employment, so the first element is not in question. Next, the jeopardy element is also not in dispute, as not protecting

1 individuals from race and sexual orientation discrimination in employment would indeed  
2 place the policy itself in jeopardy. All of the evidence here, points to a fact pattern, where,  
3 Mr. Rodriguez was offered a position away from his tormentors, those tormentors removed  
4 his credentials, and provided him with a dishonest performance review in order to keep him in  
5 the position where they could further torment and retaliate against him on the bases of his  
6 protected class status. That torment and retaliation is what actually caused Mr. Rodriguez's  
7 constructive termination. These facts prove the substantial factor prong. Finally, based on  
8 these facts, Boeing will also not be able to proffer an overriding justification for their actions  
9 here that passes the smell test. Boeing will inevitably defend itself by saying that they never  
10 terminated Mr. Rodriguez, and he currently has a position waiting for him, but Exhibit A at  
11 Bates # 000008 shows clearly that Mr. Rodriguez informed Danielle Donovan and Heidi  
12 Capozzi that his Psychiatrist, Dr. Reyes, advise he not return to work, and he considered his  
13 departure a forced separation. Finally, the position waiting for him is the same position, with  
14 same person(s) that created the hostile work environment for Mr. Rodriguez in the first place.  
15 It is painfully clear that the intent was constructive termination on a discriminatory basis,  
16 which these Boeing agents did indeed accomplish.

19        6.5     On these facts, and authority, Boeing's actions constitute a constructive  
20      discharge of Mr. Rodriguez, and this was done with discriminatory animus. As such, Boeing  
21      will lose a jury trial on this tort claim and be ordered to pay Mr. Rodriguez monetary damage  
22      in an amount to be determined by that jury.

## VII. PRAYER FOR RELIEF

25 | Wherefore, the Plaintiff prays that this Court grant the following relief:

26 | *FIRST AMENDED  
COMPLAINT FOR DAMAGES – 18*

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Seattle, WA 98154  
(253) 459-4818

7.1 Declare that the defendant's acts herein are violations of the relevant statutes, tort law and relevant case law;

7.2. Permanently enjoin the Defendants from engaging in the acts described herein;

### 7.3 Award damages, plus interest in the sum of **THREE HUNDRED EIGHTY-**

**FIVE THOUSAND DOLLARS (\$385,000),** as well as any other relief the Court deems appropriate pursuant to the alleged tort and statute(s).

7.4 Award Plaintiff's reasonable costs and attorney's fees incurred in bringing this action, pursuant to the alleged tort and statute(s).

7.5 Provide any other relief that the Court determines is just and equitable.

DATED this 26<sup>th</sup> day of July 2018.

Respectfully Submitted,

Chris Hahn

Christopher J. Stockwell  
Attorney for Plaintiff  
WSBA # 50001  
1001 Fourth Avenue #3200  
Seattle, WA 98154  
(253) 459-4818

**FIRST AMENDED  
COMPLAINT FOR DAMAGES – 19**

**Stockwell Law Firm PLLC**  
1001 4<sup>th</sup> Ave #3200  
Seattle, WA 98154  
(253) 459-4818

## **CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I, Christopher Stockwell, on the date stated below, caused to be served a true and correct copy of the foregoing Complaint and Summons on the below-listed Defendant by the method(s) noted:

via Personal Service:

**Defendant's Registered Agent for Service in Washington State**

Corporation Service Company  
300 Deschutes Way SW STE 304  
Tumwater, WA 98501

DATED this 26<sup>th</sup> day of July 2018, in Seattle, Washington.

Ch. 11

Christopher J. Stockwell

***FIRST AMENDED  
COMPLAINT FOR DAMAGES – 20***

**Stockwell Law Firm PLLC**  
1001 4<sup>th</sup> Ave #3200  
Seattle, WA 98154  
(253) 459-4818